UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,904	08/30/2001	Vincent J. Zimmer	42390P11190	2083

7590 11/30/2005	EXAMINER
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ART UNIT	PAPER NUMBER
2113	

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DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/943,904	ZIMMER ET AL.
	Examiner	Art Unit	
	Joseph D. Manoskey	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>17 October 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-27</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 August 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claim 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by

Christeson et al., U.S. Patent 5,579,522, hereinafter referred to as "Christeson".

3.   Referring to claim 1, Christeson teaches a method of dynamically updating BIOS

firmware parts that includes both normal BIOS and recovery BIOS, this is interpreted as

adding a new initiation module to a BIOS firmware of a computing system having an

extensible firmware architecture, the BIOS firmware having a plurality of initiation

modules including recovery initiation modules for recovery of the computing system and

non-recovery modules (See Col. 1, lines 25-45 and Col. 2, lines 15-57). Christeson also

teaches the verification of the flash memory area which includes the BIOS, this is

interpreted as automatically evaluating new initiation module (See Col. 3, lines 26-35

and Col. 4, lines 49-51). Christeson also discloses storing BIOS instructions in the flash

memory. The BIOS includes both a normal BIOS in one memory block and recovery

BIOS in another area of the flash memory, or the "designated" recovery area of the flash

memory. Finally, Christeson teaches updating the BIOS including the recovery portion.

This is interpreted as designating the new initiation module as a recovery initiation

module if the new initiation is required for the recovery of the computing system (See

Col. 2, lines 41-57).

4.   Referring to claim 2, Christeson discloses have a block containing all the

recovery BIOS, and all parts of the BIOS in the recovery block are part of the recovery

BIOS, this is interpreted as designating the new initiation module as a recovery initiation

module if another recovery initiation depends upon the new initiation module (See Col.

2, lines 52-57).

5.   Referring to claim 3, Christeson teaches a recovery mode that executes the

recovery BIOS, this is interpreted as executing only recovery initiation modules in an

event of a recovery restart (See Col. 3, lines 16-25).

6.   Referring to claim 4, Christeson discloses updating the BIOS, this interpreted as

an updated recovery initiation module added to the BIOS firmware to replace an

outdated recovery initiation module (See Col. 2, lines 15-20).

7.   Referring to claim 5, Christeson teaches the verification of the flash memory

area, this is interpreted as automatically evaluating at least one of the recovery initiation

modules (See Col. 3, lines 26-35). Christeson discloses updating the BIOS including

recovery BIOS, this interpreted as removing the recovery initiation module designation from at least one of the recovery initiation modules if the designation is solely due to dependence thereon by the outdated recovery initiation module (See Col. 2, lines 15-20 and lines 52-57).

8.   Referring to claim 6, Christeson teaches locking the recovery BIOS, this is interpreted as wherein the recovery initiation modules are rendered unalterable (See Col. 2, liens 52-54).

9.   Referring to claim 7, Christeson discloses the recovery BIOS being located in non-volatile memory, this is interpreted as the initiation module reside in a fault-tolerant firmware block (See Col. 2, lines 15-20).

10.   Referring to claim 8, Christeson teaches a block of code reference numbers "202", "203", "204" and "205" that add up to 64KB and contains the recovery BIOS, this is interpreted as the recovery initiation modules contained in a 64 kilobyte block of code (See Fig. 2).

11.   Referring to claim 9, Christeson discloses the recovery being used because of a corruption from power failure or other reasons, this is interpreted as recovery of the computing system is necessitated by an event selected from the group consisting of power failure, hardware failure, and security error (See Col. 3, lines 1-4).

12.   Referring to claim 10, Christeson teaches a computer readable medium

containing instructions when executed on processor performs a method of dynamically

updating BIOS firmware parts that includes both normal BIOS and recovery BIOS, this

is interpreted as adding a new initiation module to a BIOS firmware of a computing

system having an extensible firmware architecture, the BIOS firmware having a plurality

of initiation modules including recovery initiation modules for recovery of the computing

system and non-recovery modules (See Col. 1, lines 25-45 and Col. 2, lines 15-57).

Christeson also teaches the verification of the flash memory area which includes the

BIOS, this is interpreted as automatically evaluating the new initiation module (See Col.

3, lines 26-35 and Col. 4, lines 49-51). Christeson also discloses storing BIOS

instructions in the flash memory. The BIOS includes both a normal BIOS in one

memory block and recovery BIOS in another area of the flash memory, or the

"designated" recovery area of the flash memory. Finally, Christeson teaches updating

the BIOS including the recovery portion. This is interpreted as designating the new

initiation module as a recovery initiation module if the new initiation is required for the

recovery of the computing system (See Col. 2, lines 41-57).

13.   Referring to claim 11, Christeson discloses have a block containing all the

recovery BIOS, and all parts of the BIOS in the recovery block are part of the recovery

BIOS, this is interpreted as designating the new initiation module as a recovery initiation

module if another recovery initiation module depends upon the new initiation module
(See Col. 2, lines 52-57).

14.   Referring to claim 12, Christeson teaches a recovery mode that executes the
recovery BIOS, this is interpreted as executing only recovery initiation modules in an
event of a recovery restart (See Col. 3, lines 16-25).

15.   Referring to claim 13, Christeson discloses updating the BIOS, this interpreted as
an updated recovery initiation module added to the BIOS firmware to replace an
outdated recovery initiation module (See Col. 2, lines 15-20).

16.   Referring to claim 14, Christeson teaches the verification of the flash memory
area, this is interpreted as automatically evaluating at least one of the recovery initiation
modules (See Col. 3, lines 26-35). Christeson discloses updating the BIOS including
recovery BIOS, this interpreted as removing recovery initiation module designation from
a least one of the recovery initiation modules if the designation is solely due to
dependence thereon by the outdated recovery initiation module (See Col. 2, lines 15-20
and lines 52-57).

17.   Referring to claim 15, Christeson teaches locking the recovery BIOS, this is
interpreted as wherein the recovery initiation modules are rendered unalterable (See
Col. 2, liens 52-54).

18.   Referring to claim 16, Christeson discloses the recovery BIOS being located in

non-volatile memory, this is interpreted as the initiation module reside in a fault-tolerant

firmware block (See Col. 2, lines 15-20).

19.   Referring to claim 17, Christeson teaches a block of code reference numbers

"202", "203", "204" and "205" that add up to 64KB and contains the recovery BIOS, this

is interpreted as the recovery initiation modules contained in a 64 kilobyte block of code

(See Fig. 2).

20.   Referring to claim 18, Christeson discloses the recovery being used because of a

corruption from power failure or other reasons, this is interpreted as the recovery of the

computing system is necessitated by an event selected from the group consisting of

power failure, hardware failure, and security error (See Col. 3, lines 1-4).

21.   Referring to claim 19, Christeson teaches a apparatus for dynamically updating

BIOS firmware parts that includes both normal BIOS and recovery BIOS, this is

interpreted as adding an initiation module to a BIOS firmware of a computing system

having an extensible firmware architecture, the BIOS firmware having a plurality of

initiation modules including recovery initiation modules for recovering of the computing

system and non-recovery modules (See Col. 1, lines 25-45 and Col. 2, lines 15-57).

Christeson also teaches the verification of the flash memory area which includes the

BIOS, this is interpreted as automatically evaluating a new initiation module (See Col. 3,

lines 26-35 and Col. 4, lines 49-51). Christeson also discloses storing BIOS instructions

in the flash memory. The BIOS includes both a normal BIOS in one memory block and

recovery BIOS in another area of the flash memory, or the "designated" recovery area

of the flash memory. Finally, Christeson teaches updating the BIOS including the

recovery portion. This is interpreted as designating the new initiation module as a

recovery initiation module if the initiation is required for the recovery of the computing

system (See Col. 2, lines 41-57).

22.   Referring to claim 20, Christeson discloses have a block containing all the

recovery BIOS, and all parts of the BIOS in the recovery block are part of the recovery

BIOS, this is interpreted as designating the initiation module as a recovery initiation

module if another recovery initiation module depends upon the new initiation module

(See Col. 2, lines 52-57).

23.   Referring to claim 21, Christeson teaches a recovery mode that executes the

recovery BIOS, this is interpreted as executing only recovery initiation modules in an

event of a recovery restart (See Col. 3, lines 16-25).

24.   Referring to claim 22, Christeson discloses updating the BIOS, this interpreted as

an updated recovery initiation module added to the BIOS firmware to replace an

outdated recovery initiation module (See Col. 2, lines 15-20).

25.   Referring to claim 23, Christeson teaches the verification of the flash memory

area, this is interpreted as automatically evaluating at least one of the recovery initiation

modules (See Col. 3, lines 26-35). Christeson discloses updating the BIOS including

recovery BIOS, this interpreted as removing the recovery initiation module designation

from all initiation modules designated as recovery initiation modules solely due to

dependence thereon by the outdated recovery initiation module (See Col. 2, lines 15-20

and lines 52-57).

26.   Referring to claim 24, Christeson teaches locking the recovery BIOS, this is

interpreted as wherein the recovery initiation modules are rendered unalterable (See

Col. 2, liens 52-54).

27.   Referring to claim 25, Christeson discloses the recovery BIOS being located in

non-volatile memory, this is interpreted as the initiation module reside in a fault-tolerant

firmware block (See Col. 2, lines 15-20).

28.   Referring to claim 26, Christeson teaches a block of code reference numbers

"202", "203", "204" and "205" that add up to 64KB and contains the recovery BIOS, this

is interpreted as the recovery initiation modules contained in a 64 kilobyte block of code

(See Fig. 2).

29.   Referring to claim 27, Christeson discloses the recovery being used because of a

corruption from power failure or other reasons, this is interpreted as the recovery of the

computing system is necessitated by an event selected from the group consisting of

power failure, hardware failure, and security error (See Col. 3, lines 1-4).

Response to Arguments

30.   Applicant's arguments filed 17 October 2005 have been fully considered but they

are not persuasive. The Applicant argues that Christeson does not teach, (1) adding a

new initiation module to a BIOS firmware of a computing system having an extensible

firmware architecture, the BIOS firmware having a plurality of initiation modules

including recovery initiation modules or recovery of the computing system and non-

recovery modules, (2) automatically evaluating the initiation module; and (3) designating

the new initiation module as a recovery initiation module if the new initiation module is

required for the recovery of the computing system. The Examiner respectfully

disagrees.

        Christeson teaches dynamically updating BIOS firmware parts that includes both

normal BIOS and recovery BIOS (See Col. 1, lines 25-45 and Col. 2, lines 15-57).

BIOS is responsible for initializing the components of a computer system upon startup,

thus updating the BIOS firmware would be adding a new initiation module to a BIOS

firmware of a computing system having an extensible firmware architecture, the BIOS

firmware having a plurality of initiation modules including recovery initiation modules or

recovery of the computing system and non-recovery modules.

Christeson also teaches the verification of the flash memory area (See Col. 3, lines 26-35). The flash memory contains the BIOS thus verification of the flash memory is verification of the initiation modules of the BIOS (See Col. 4, lines 49-51). Evaluating a initiation module would include verifying the module.

Finally Christeson also discloses storing BIOS instructions in the flash memory. The BIOS includes both a normal BIOS in one memory block and recovery BIOS in another area of the flash memory, or the "designated" recovery area of the flash memory. Finally, Christeson teaches updating the BIOS including the recovery portion. (See Col. 2, lines 41-57). By placing the update in the recovery BIOS as opposed to placing the update in the normal BIOS is "designated" the new initiation module as a recovery initiation module since it is required for recovery.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Manoskey whose telephone number is (571) 272-3648. The examiner can normally be reached on Mon.-Fri. (7:30am to 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

JDM
November 23, 2005

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